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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/301,868	04/29/99	BECKMAN	M BECKMA. M-1

IM22/0705  
PATENT LAW & VENTURE GROUP  
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3151 AIRWAY AVENUE  
COSTA MESA CA 92626

EXAMINER

MAI, H

ART UNIT	PAPER NUMBER
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1761

DATE MAILED:

07/05/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/301,868

Applicant(s)

Beckman

Examiner

Hao Mai

Group Art Unit

1761



☒ Responsive to communication(s) filed on Apr 18, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-17 is/are pending in the application.

Of the above, claim(s) 1-9 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 10-17 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1761

## DETAILED ACTION

### *Election/Restriction*

1. Claims 1-9 withdrawn from further consideration by the examiner, 37 CFR 1.142(b) as being drawn to a non-elected invention. Election was made **without** traverse in Paper No. 4 is acknowledged.

### *Claim Rejections - 35 U.S.C. § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 10-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 10 is unclear because it does not positively recite the claimed invention by using the terms "adapted" and "enable".

### *Claim Rejections - 35 U.S.C. § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10, 14 -15, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brauner et al(5,318,787). Brauner et al teach a drink bottle having a bottle neck and a removable

Art Unit: 1761

cap; a snack package accepting the bottle neck and intimately against the bottle wall for securement therewith(see fig 4). Brauner et al do not teach the specifically claimed a cylindrical bottle and cylindrical envelope. However, the specifically claimed a cylindrical bottle and cylindrical envelope is not seen to be a patentable distinction, but rather a matter of design choice. Regarding claims 14 and 15, see figs. 3-4).

Regarding claim 17, see fig 1, col. 6, lines 6+).

6. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brauner et al in view of Barnes et al(5,674,546). Brauner et al teach all of the claimed limitations except for an adhesive layer. Barnes et al teach an adhesive tape to join the upper and lower container(see col. 6, lines 40+, fig.3). It would have been obvious to one of ordinary skill in the art to use the adhesive layer as taught by Barnes et al, since Barnes et al teach the conventional method<sup>1b</sup> using adhesive to joint<sup>2</sup> ~~to~~ parts together.

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brauner et al in view of Rea et al (5,950,913). Brauner et al teach all of the claimed limitations except for a spiral score. Rea et al teach a spiral score container(see col. 3, lines 4+). It would have been obvious to one of ordinary skill in the art to construct the envelope of Brauner et al spirally as taught by Rea et al, since Rea et al teach that spirally-wound container is well known in the industry.

8. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brauner et al in view of LaBarbera(4,170,316). Brauner et al teach all of the claimed limitations except for the protruberence<sup>being</sup> ~~is~~ a plurality of boses. LaBarbera teaches caps having the protruberence<sup>being</sup> ~~is~~ a <sup>0</sup>

Art Unit: 1761

plurality of boses(see figs. 2-3D). It would have been obvious to one of ordinary skill in the art to provide the protrubence having a plurality of boses as taught by LaBarbera, since LaBarbera teaches that this protrubence is an improve wedge-fastening mechanism(see col. 1, lines 45).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Hao Mai, whose telephone number is (703) 306-9171. The Examiner can normally be reached on Monday-Thursday from 8AM-4:30PM.


If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Ms. Gabrielle Brouillette, can be reached on (703)308-0756.

The fax phone number for this group is (703) 305-3599 or 305-7718.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Hao Mai/ hm

Patent Examiner/ Art Unit 1761

  
GABRIELLE BROUILLETTE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700  
7/3/00